

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

CHARLES ELLIS SHIRLEY,)	Cause No. CV 06-161-BLG-RFC-CSO
)	
Plaintiff,)	
)	
vs.)	FINDINGS AND RECOMMENDATION
)	OF U.S. MAGISTRATE JUDGE
DAWSON COUNTY ADULT)	
CORRECTIONAL FACILITY,)	
)	
Defendants.)	
)	

On November 6, 2006, Plaintiff Charles Ellis Shirley moved to proceed in forma pauperis with this action under 42 U.S.C. § 1983. Shirley is a prisoner proceeding pro se.

On November 17, 2006, the Clerk of Court issued a Notice of Case Opening. The Notice was returned as undeliverable mail on December 11, 2006. On January 8, 2007, Standing Order No. DWM-48 was mailed to Shirley. It was returned as undeliverable mail on January 22, 2007. The Court has been unable to find any record of a Charles Shirley in the Montana or federal prison databases.

D. Mont. L.R. 5.4(a) requires parties proceeding pro se to “promptly file with the Court and serve upon all opposing parties a Notice of Change of Address specifying the new address.” D. Mont. L.R. 5.4(b) provides:

The Court may dismiss a complaint without prejudice or strike an answer when:
(1) mail directed to the attorney or pro se party by the Court has been returned to the Court as not deliverable; and

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(2) the Court fails to receive within 60 days of this return a written communication from the attorney or pro se party indicating a current address.

Because Shirley has not been in contact with the Court since he filed his Complaint on November 6, 2006, and because mail addressed to him at his only known address has twice been returned as undeliverable, the Court recommends that his complaint be dismissed under D. Mont. L.R. 5.4.

Based on the foregoing, the Court enters the following:

RECOMMENDATION

Shirley's Complaint (doc. 1) should be DISMISSED WITHOUT PREJUDICE for failure to keep the Court informed of his current mailing address.

The Clerk of Court shall serve a copy of the Findings and Recommendation of the United States Magistrate Judge upon the Plaintiff. Plaintiff is advised that, pursuant to 28 U.S.C. § 636, any objections to these findings must be filed with the Clerk of Court within twenty (20) days¹ after the entry date reflected on the Notice of Electronic Filing, or objection is waived.

The Clerk of Court shall serve the Findings and Recommendation on Shirley at his last known address.

DATED this 13th day of April, 2007.

/s/ Carolyn S. Ostby
Carolyn S. Ostby
United States Magistrate Judge

¹ In prisoner cases, this Court extends the time to object to twenty days in order to take into account the somewhat greater mailing time that is involved in sending documents into and out of a prison facility.